

## TITLE 327 WATER POLLUTION CONTROL BOARD

LSA Document #09-213

### SUMMARY/RESPONSE TO COMMENTS FROM THE THIRD COMMENT PERIOD

IDEM requested public comment from August 3, 2011, through September 2, 2011, on the proposed rule published at 20110803-IR-327090213PRA. IDEM received comments from the following parties by the comment period deadline:

Kristin Whittington, Landmark Enterprises, LLC (KW)  
Janet Ecklebarger (JE)

Following is a summary of the comments received and IDEM's responses thereto.

*Comment:* Under the previous version of 327 IAC 15-16-13(a), there were provisions for CAFOs holding a general NPDES permit to transition to the CFO program in 327 IAC 19. With the repeal of [327 IAC 15-16] there is no longer an allowance for those CAFOs that meet the definition of a CFO to transfer out of the general NPDES permit program. The ability for these CAFOs to transfer to the CFO program and be regulated under 327 IAC 19 is a requirement that was passed down under recent case law. That ability is now not available for existing CAFOs. In order to allow CAFOs who do not discharge to change their permits to CFO and fall under the provisions of 327 IAC 19, a statement to that effect needs to be included in this rule. Guidance can then include the information on specifically how IDEM would like these operations to transfer over. (KW)

*Response:* The final NPDES CAFO rule has been amended to allow for CAFOs currently operating under 327 IAC 15-15 to transition into 327 IAC 19 by supplying IDEM a notification. Guidance and information will be provided to all operations currently holding a NPDES CAFO general permit on how to transfer programs.

*Comment:* I am extremely concerned that as the number of CAFOs in Indiana grows, there are only a limited number of IDEM agents that we have monitoring them, and considering state budget nowadays, are probably not going to increase in the near future. Your proposed new guidelines are not nearly stringent enough, especially in light of less monitoring. (JE)

*Response:* IDEM is always adjusting resource allocations based on the needs which exist. IDEM has committed to EPA through the 2009-2011 Environmental Performance Partnership Agreement to conduct compliance inspections at 20% of all CAFOs each fiscal year. CAFOs which demonstrate that more frequent compliance inspections are necessary will receive more frequent visits by IDEM staff.

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